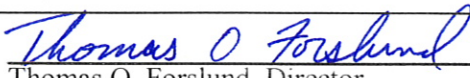


Thomas. O Forslund, Director

Governor Matthew H. Mead

<b>Policy Title:</b>	Minimum Necessary Information
<b>Policy Number:</b>	AS-004
<b>Effective Date:</b>	July 1, 2013
<b>Approval:</b>	 Thomas O. Forslund, Director Date <u>5/13/13</u>

**Purpose:**

This policy establishes procedures for determining the minimum necessary amount of protected health information (PHI), including paper and electronic data, that Wyoming Department of Health (WDH) workforce may use, disclose, or request.

**Scope:**

This policy applies to all WDH workforce.

**Policy:****1. General**

- a. When using or disclosing PHI or when requesting PHI from another covered entity, WDH workforce shall make reasonable efforts to limit such PHI to the information reasonably necessary to accomplish the intended purpose of the use, disclosure or request.
- b. The minimum necessary standard does not apply to:
  - i. Disclosures to or requests by a health care provider for treatment.
  - ii. Disclosures to the individual who is the subject of the PHI.
  - iii. Uses or disclosures made pursuant to a valid authorization.
  - iv. Disclosures made to the Secretary of the U.S. Department of Health and Human Services in accordance with subpart C of 45 CFR part 160 regarding complaints and investigations.
  - v. Uses or disclosures that are required by law, as described by 45 CFR § 164.512(a).
  - vi. Uses or disclosures that are required for compliance with the Privacy and Security Rules.

**2. Minimum Necessary Uses of PHI.** WDH shall establish categories for job functions (i.e., role-based access designations). Each category shall specify the PHI that is reasonably necessary to perform the job functions within the category.

- a. Supervisors shall:
  - i. Assign each WDH workforce member under their supervision a functional category upon initial hire or position change and annually thereafter to ensure assignment to the appropriate category. Such assignment shall be documented using WDH Form F-028; Assignment of Functional Category.
    - A. Each WDH workforce member shall be assigned to at least one functional category based on his/her primary job function. If necessary, based on other job duties, such workforce member shall be assigned to additional functional categories.
  - ii. Ensure each workforce member under their supervision signs the WDH Form F-028; Assignment of Functional Category.

- b. WDH workforce shall not access PHI in excess of the minimum necessary amount proscribed for their functional category, as defined in WDH Form F-026; Functional Categories. Further, WDH workforce shall tailor access to the minimum amount of PHI necessary to accomplish each specific task performed, even if their assigned functional category allows for greater access.

### **3. Minimum Necessary Disclosures of PHI**

- a. Routine and Recurring Disclosures
  - i. Routine and recurring disclosures shall be in accordance with WDH Forms F-025; Request for WDH Data and F-027; Routine and Recurring Disclosures. The initial disclosure shall require a full review by the WDH workforce member making the disclosure and the WDH Compliance Office designee:
    - A. To determine the legal authority for making the disclosure, and to determine whether the minimum necessary standard applies. Legal authority shall be established before any disclosure of PHI is made regardless of the amount being requested.
    - B. If the minimum necessary standard applies, to ensure the PHI requested is limited to the amount reasonably necessary to accomplish the intended purpose of the disclosure.
      - I. If WDH does not agree that the amount of PHI requested is reasonably necessary to achieve the intended purpose of the request, the WDH Compliance Office or designee shall contact the requestor and negotiate a resolution as to the amount of PHI reasonably needed.
  - ii. WDH is not required to conduct a full review for each subsequent routine and recurring disclosure (see WDH Form F-027; Routine and Recurring Disclosures). However, the WDH workforce member making the disclosure should confirm that the amount of PHI disclosed is consistent with the determination made during the initial review.
- b. Non-Routine Disclosures
  - i. Non-routine disclosures shall be reviewed on an individual basis in accordance with 3.a.i., as listed above.
- c. WDH shall not disclose an entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the disclosure, or the disclosure is not subject to the minimum necessary standard and is permitted under all applicable laws, regulations and WDH policy.
- d. WDH may reasonably rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:
  - i. Making disclosures to public officials pursuant to 45 CFR § 164.512, if the public official represents that the PHI requested is the minimum necessary for the stated purpose;
  - ii. The PHI is requested by another covered entity;
  - iii. The PHI is requested by a WDH workforce member or WDH's business associate for the purposes of providing professional services to WDH, if such workforce member or business associate represents that the PHI requested is the minimum necessary for the stated purpose; or
  - iv. Documentation or representations that comply with the applicable requirements of 45 CFR § 164.512(i) have been provided by a person requesting the information for research purposes.

### **4. Minimum Necessary Requests for PHI (Made by WDH to Other Covered Entities)**

- a. Routine and Recurring Requests
  - i. Prior to submission, the initial request shall be reviewed by the WDH workforce member submitting the request and WDH Compliance Office designee.
  - ii. Subsequent requests shall not require review.

- b. Non-Routine and Non-Recurring Requests
    - i. Prior to submission, each request shall be reviewed by the WDH workforce member submitting the request and WDH Compliance Office designee.
  - c. To determine the minimum necessary amount of PHI to request, WDH shall:
    - i. Determine the purpose of the request; and
    - ii. Identify the data elements required to fulfill the request;
  - d. WDH shall not request the entire health record of an individual, except when the entire health record is specifically justified as the amount that is reasonably necessary to accomplish the purpose for the request.
5. **Assistance.** The WDH Compliance Office shall be available, as necessary, to assist with any questions or concerns regarding the minimum necessary standard and its application to uses and disclosures of and requests for PHI.

**Contacts:**

De Anna Greene, CIPP/US, CIPP/G, CIPP/IT, WDH Privacy/Compliance Officer, (307) 777-8664  
Tate Nuckols, JD, WDH Security Officer, (307) 777-2438

**Forms:**

F-025; Request for WDH Data  
F-026; Functional Categories  
F-027; Routine and Recurring Disclosures  
F-028; Assignment of Functional Category Acknowledgement

**References:**

45 CFR §§ 164.502(b) and 514(d)

**Training:**